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NATIONAL PENSIONS ACT (ACT NO 44 OF 1976)

(WITH AMENDMENTS AS AT JULY 2009)

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PART I – PRELIMINARY

1 Short title

This Act may be cited as the National Pensions Act.

2 Interpretation

In this Act–

"annual earnings" means the remuneration during the 12 months immediately preceding the date on which an employee suffers industrial injury;

"apprenticeship" has the same meaning as in the Apprenticeship Act;

"approved body" means a body specified in the Fourth Schedule;

"basic pension" means a pension or allowance payable under Part II;

"basic retirement pension" means a pension payable under section 3;

"benefit" means any pension or allowance payable under this Act;

"Board" means the National Pensions Board established under section 31;

"charitable institution" in relation to any inmate, means–

- (a) an institution in receipt of a grant from public funds;
- (b) an institution which supplies its inmates, free of charge, with board, clothing and lodging;

"child" means a person who is under–

- (a) the age of 15;
 - (b) in the case of a person who is receiving full-time education, the age of 20;
- and
includes a stepchild and an adopted child;

"child's allowance" means an allowance payable under section 7;

"completed month" means any one of the 12 months of the year;

"contribution" means a contribution payable under section 17 or 18;

"contributory pension" means a pension payable under Part IV;

"contributory retirement pension" means a pension payable under section 20;

"craft" includes a boat or an aircraft;

"dependant's pension" means a pension payable under section 29(3);

"dependent child" means a child who is living with or wholly or substantially maintained by the person concerned, but does not include a child born 300 days or more from the date of death of the husband;

"disabled" means–

- (a) for the purpose of sections 8, 21 and 28 (3), suffering from a disablement of not less than 60% and resulting from loss of mental or physical faculty;
- (b) for the purpose of section 26, suffering from a disablement of not less than 1% and resulting from a loss of mental or physical faculty caused by an industrial accident or a prescribed disease;

"disablement pension" means a pension payable under section 26;

"document" includes the register specified in section 45H;

"domestic service" means employment in a private household and includes employment as cook, driver, gardener, garde malade, maid, seamstress;

"employee" means—

- (a) a person who works under a contract of service or apprenticeship, whether written or oral, express or implied, for another person but does not include a job contractor, by any name called, working under a contract for services; or
- (b) for the purpose of Part V and section 47, an employee, as defined in paragraph (a), who is an insured person or who would be an insured person had he attained the age of 18; or
- (c) such other person as the Minister may prescribe;

"employer" means the employer of a person who is an insured person under section 13(1);

~~"estimated yearly income"~~ (deleted by NPA (Amendment Act 2005. Effective as from July 2005)

"final" in relation to a disablement pension means an award based on an assessment which does not indicate that the claimant should be further medically examined;

"final retirement age", in relation to an insured person, means the age he attains by adding five years to his retirement age;(added by Finance Act 2008)

"Fund" means the National Pensions Fund established under section 37;

"guardian's allowance" means an allowance payable under section 6;

~~"income"~~, (deleted by NPA (Amendment Act 2005. Effective as from July 2005)

"industrial accident" means an accident referred to in section 24(2);

"industrial injury" has the meaning assigned to it in section 24;

"industrial injury allowance" means an allowance payable under section 25;

"inmate's allowance" means an allowance payable under section 9;

"insurable wage or salary" in relation to an insured person, means—

- (a) where the terms and conditions of employment of the insured person are governed by a Remuneration Order, arbitral award or an agreement whether oral or written, express or implied the basic wage or salary prescribed in the Remuneration Order, award or agreement, or where the employer pays a higher wage or salary, the higher wage or salary so paid, but does not include any allowance, by any name called, and whether paid in cash or in kind;
- (b) in any other case, all the emoluments received by the insured person, excluding any bonus or overtime;

"insured person" means—

- (a) for the purposes of this Act, other than section 17 and Part V, a person referred to in section 13 or 15;
- (b) for the purposes of section 17 and Part V, a person referred to in section 13(1); and, for the purposes of Part IV, includes a person in respect of whom contributions have been paid under section 17(1)(a) or 18;

"invalid's basic pension" means a pension payable under section 8;

"invalid's contributory pension" means a pension payable under section 21;

"loss of mental or physical faculty" means an impairment of the proper functioning of part of the body or mind and includes any disfigurement;

"Minister" means the Minister to whom responsibility for the subject of social security is assigned;

"monthly earnings" in relation to an insured person, means one-twelfth of his annual earnings;

"National Pensions Officer" means a public officer entrusted by the Minister with responsibility for carrying out the duties specified in this Act;

"orphan" means a person whose parents, excluding stepparents, are dead or unknown;

"orphan's contributory pension" means a pension payable under section 23;

"orphan's industrial injury pension" means a pension payable under section 29(1);

"orphan's pension" means a pension payable under section 5;

"pay period" means such period as the Minister may prescribe;

"pension law" means an enactment which provides for the payment, by the Government or a local authority of—

- (a) (i) a pension; or
- (ii) a compassionate or other allowance, to a former employee in respect of his past employment; or
- (b) a pension to a person in respect of the past employment of his deceased spouse or parent;

"pension points" means the points calculated in accordance with the Third Schedule or the Eighth Schedule;

"permanent" in relation to a disablement pension, means a final award of a pension for at least 8 years;

"Permanent Secretary" means the Permanent Secretary, Ministry of Social Security;

"remarriage" means a second or subsequent marriage;

"remuneration" means such insurable wage or salary of an insured person as set out in the Fifth Schedule;

"retirement age" means, in respect of a person whose month and year of birth is specified in column 1 of the Ninth Schedule, the date on which that person attains the age specified in column 2 of that Schedule; ;*(added by Finance Act 2008. Effective as from July 2008)*

"retiring age" means the retirement age or an age later than the retirement age at which an insured person elects to receive a contributory retirement pension; *(amended by Finance Act 2008. Effective as from July 2008)*

~~"specified yearly income"~~ *(deleted by NPA (Amendment Act 2005. Effective as from July 2005)*

"stepchild" in relation to a person who claims a benefit, means a child of his spouse or deceased spouse who is not his own child;

"surcharge" means the surcharge leviable under section 45A;

"survivor's pension" means a pension payable under section 28;

"week" means a period of 7 consecutive days;

"widow" includes the female surviving partner of a religious marriage;

"widow's basic pension" means a pension payable under section 4;

"widow's contributory pension" means a pension payable under section 22;

~~"yearly income"~~ *(deleted by NPA (Amendment Act 2005. Effective as from July 2005).*

PART II – BASIC PENSIONS

3 Basic retirement pension.

Subject to section 10, a person who has attained the age of 60 shall be qualified to receive a basic retirement pension.

4 Widow's basic pension.

(1) Subject to section 10, a person who is a widow shall be qualified to receive a widow's basic pension as long as–

- (a) she is under the age of 60; and
- (b) she has not contracted a subsequent civil or religious marriage.

(2) No widow's basic pension shall be payable unless the National Pensions Officer is satisfied, by documentary evidence or otherwise, that the partners had contracted a civil or religious marriage.

5 Orphan's pension.

(1) Subject to subsection (2) and section 10, an orphan shall be entitled to an orphan's pension as long as–

- (a) he is–
 - (i) under the age of 15; or
 - (ii) in the case of an orphan who is receiving full-time education, under the age of 20; and
- (b) he is not married.

(2) An orphan's pension shall be–

- (a) paid to the guardian of the orphan or such other person having the custody of the orphan as the National Pensions Officer may determine; and
- (b) devoted by the person receiving it for the exclusive benefit of the orphan.

6 Guardian's allowance.

(1) Subject to subsection (2), where an orphan's pension is payable to a person under section 5(2)(a), that person shall be qualified to receive a guardian's allowance.

(2) No person shall be qualified to receive more than one guardian's allowance irrespective of the number of orphans for whom he acts as guardian and not more than one guardian's allowance shall be paid in respect of the same household.

7 Child's allowance.

(1) A person shall be qualified to receive a child's allowance where–

- (a) he has one dependent child or more; and
- (b) subject to subsection (2), he is qualified to receive–
 - (i) a widow's basic pension;
 - (ii) an invalid's basic pension; or
 - (iii) a survivor's pension.

(2) A person who is in receipt of a child's allowance shall not cease to receive such allowance by reason only that–

- (a) he has ceased to be qualified to receive a widow's basic pension or a survivor's pension;
 - (b) he has ceased to be qualified to receive an invalid's basic pension on the ground that he has attained the age of 60.
- (3) Where more than one person is qualified to receive a child's allowance in respect of the same child, the allowance shall be paid to such of those persons as the National Pensions Officer may determine.
- (4) A child's allowance—
- (a) shall, subject to paragraph (b), be paid in respect of each child;
 - (b) shall not be payable to any person in respect of more than 3 children.

8 Invalid's basic pension.

- (1) Subject to section 10, a person shall be qualified to receive an invalid's basic pension where—
- (a) he is disabled and is likely to be so disabled for a period of at least 12 months; and
 - (b) he has reached the age of 15 and is under the age of 60.
- (2) The National Pensions Officer shall, when awarding a pension, specify—
- (a) the period which shall not be less than 12 months for which the pension is to be payable;
 - (b) that the applicant must be re-examined at the end of such period as he may determine.
- (3) Any person who suffers from one of the injuries specified in the first column of the Sixth Schedule shall be awarded the percentage of disablement specified in the second column of that Schedule.

9 Inmates' allowance.

Where a person, who is otherwise qualified to receive a basic pension, is disqualified under section 10 from receiving that pension he shall be qualified to receive an inmate's allowance.

10 Disqualification.

No person shall be qualified to receive a basic pension other than an inmate's allowance where he is an inmate of a charitable institution.(amended by National Pensions (Amendment) Act 2005. Effective as from 1 July 2005)

11 Rate of basic pensions.

Basic pensions shall be at the rates specified in the Second Schedule.(amended by NP Amendment Act 2005. Effective as from 1 July 2005)

PART III – INSURED PERSONS AND CONTRIBUTIONS

12 –

13 Insured persons. ;(amended by Finance Act 2008. Effective as from 1 July 2008))

- (1) ***Subject to subsection (2) and to the other provisions of this Act, every person who—***
- (a) ***is an employee of a category specified—***
 - (i) ***in the first column of the First Schedule; and***
 - (ii) ***in regulations made for the purposes of this Part;***

- (b) *has attained the age of 18;*
- (c) *is under the retirement age,*

shall become an insured person.

(2) *Subject to subsection (3), where an employee who is an insured person under subsection (1) is employed after reaching retirement age, he shall remain an insured person until he ceases to be employed or he reaches final retirement age, whichever is earlier.*

(3) *Where a person is an insured person after reaching retirement age and-*

(a) *has elected to receive his contributory retirement pension—*

(i) *no contribution shall be payable by him in respect of any period following the end of the month in which he reaches retirement age; and*

(ii) *his employer shall, in relation to him, pay the contributions determined in accordance with the appropriate rate specified in the third column of the First Schedule until he ceases to be employed or he reaches final retirement age, whichever is earlier; or*

(b) *has not elected to receive his contributory retirement pension, his employer shall, in relation to him, pay the contributions determined in accordance with the appropriate rate specified in the second and third columns of the First Schedule until he elects to receive his contributory retirement pension or he reaches final retirement age, whichever is the earlier.*

14 [Repealed 16/81]

15 **Persons voluntarily insured**

Where the Minister has made regulations for this Part in relation to any person who—

- (a) has attained the age of 18;
- (b) is under **the retirement age**; *;(amended by Finance Act 2008. Effective as from 1 July 2008)*
- (c) makes an application in the prescribed manner to the Minister to be an insured person, that person shall become an insured person as from such day as the Minister may, on approval of the application, specify.

16 **Persons ceasing to be insured persons**

Subject to section 13(3), every person shall cease to be an insured person on the date from which he elects to receive his contributory retirement pension under section 20(2).

17 **Employer to pay contribution**

(1) Subject to 17A, the employer of every insured person shall—

(a) pay to the Minister, in such manner as may be prescribed—

(i) where he employs one insured person, the amount of the contribution at the appropriate rate specified in the second and third columns of the First Schedule in respect of any remuneration paid to that insured person;

(ii) where he employs more than one insured person, the total amount of contributions payable at the appropriate rate specified in the second and third columns of the First Schedule in respect of the remuneration paid to all his insured persons;

(b) submit to the Minister, in such manner as may be prescribed, a record of every insured person employed by him together with a statement setting out the

remuneration paid to the insured person and the corresponding contributions.

(2) The employer of every insured person shall, at the time of paying to the insured person his remuneration for any period, deduct from the remuneration of the insured person the contribution at the appropriate rate specified in the second column of the First Schedule in respect of that remuneration.

(3) The amount of a deduction under subsection (2) shall not be recoverable by the employee from the employer.

(4) Notwithstanding any enactment or any agreement, no employer shall deduct from the remuneration of an insured person any contribution determined in accordance with the third column of the First Schedule and required to be paid by him under subsection (1).

(5) Where the Minister is satisfied that it is not reasonably practicable to collect the contributions payable by an employer in relation to any insured person, the Minister may, by written notice, require any person –

- (a) who, by virtue of any enactment or agreement is required to pay wages or salary to the insured person;
- (b) through whose agency the insured person has secured employment; or
- (c) who, directly or indirectly, controls or comes into possession of the wages or salary payable to the insured person, to pay the contributions payable in relation to the insured person under subsection (1)(a).

(6) Where a notice is issued under subsection (5), this Act shall, with effect from the date specified in the notice, apply to the person named in the notice as they apply to an employer.

(7) For the purposes of this section, where wages or salary are paid to an employee –

- (a) by an agency or third party;
- (b) through an agency or third party;
- (c) on the basis of accounts submitted by an agency or third party;
- (d) in accordance with arrangements made by an agency or third party;
- (e) by way of fees, commission or other similar payments which relate to his continued employment in the work obtained through an agency or third party, the agency or third party, as the case may be, shall be deemed to be the employer of that employee.

17A Joint liability of employer and job contractor in the Sugar Industry.

(1) Where an employer has recourse to a job contractor –

- (a) he shall forthwith give written notice thereof to the Minister and specify in the notice the name and address of the job contractor, the duration and value of the contract, and the nature of work or service to be performed;
- (b) the employer and the job contractor shall be jointly and severally liable to pay the contribution under section 17 in respect of every insured person employed by the job contractor in the performance of the work or service specified in the contract.

(2) For the purposes of this section-

“employer” has the meaning assigned to it under **section 33 of the Employment Rights Act 2008**; (Amended by *Employment Rights Act 2008. Effective from 2 February 2009*)

“job contractor” means a person who employs an insured person for the performance of any work or service which he has contracted to do or provide for an employer.

17B. Contribution in respect of persons in receipt of Transition Unemployment Benefit. (added by Employment Rights Act 2008. Effective as from 2 February 2009)

(1) Where a person is in receipt of a Transition Unemployment Benefit under section 5C of the National Savings Fund Act, contributions at the rate of 9 per cent of the basic wage or salary shall be paid in respect of that person to the Fund.

(2) The contributions under subsection (1) shall be paid out of the Workfare Programme Fund set under section 45 of the Employment Rights Act 2008.

18 Contribution.

Every self-employed, non-employed or prescribed person who is an insured person under section 15 shall pay a contribution at the rate specified in paragraph 3 of the First Schedule in such manner and at such times as may be prescribed.

19 Privilege in respect of contributions.

(1) Any payment required to be made by an employer under sections 17(1)(a) and 45A shall be secured by a privilege in favour of the Government, ranking concurrently with the privileges for the wages of servants (*gens de travail*) under article 2148 of the Code Napoleon.

(2) The privilege under subsection (1), shall—

- (a) be in respect of all payments required to be made by the employer;
- (b) extend over all the movables and immovables of the employer; and
- (c) not required to be transcribed by the Conservator of Mortgages.

PART IV – CONTRIBUTORY PENSIONS

20 Contributory retirement pension. ;(amended by Finance Act 2008. Effective as from 1 July 2008)

(1) Subject to the other provisions of this section-

(a) every insured person shall, on reaching retiring age, be entitled to a contributory retirement pension;

(b) where an insured person has not attained the retirement age but is 60 years or more, he may opt to receive a reduced contributory retirement pension.

(2) (a) The contributory retirement pension in respect of an insured person who becomes entitled to the pension other than under subsection (3), (4) or (6) shall be calculated in accordance with the Third Schedule but shall in no case be less than the amount specified in the Second Schedule.

(b) Where an entitlement arises under subsection (1)(b), the contributory retirement pension calculated under paragraph (a) on pension points earned after 30 June 2008 shall be reduced by the appropriate Early Retirement Reduction Factor specified in paragraph 5 of the Third Schedule.

(c) Where the contributory retirement pension is claimed after the insured person has reached the age of 60, the pension calculated under paragraph (a) on pension points earned up to 30 June 2008 shall be increased by the appropriate Late Retirement Increase Factor specified in paragraph 6 of the Third Schedule.

(3) Every -

- (a) female agricultural or non-agricultural worker of the age 45 or over; or

(b) male agricultural or non-agricultural worker of the age of 50 or over,

shall be entitled to an actuarially calculated contributory retirement pension as from the date the contract of employment is voluntarily terminated by the worker under a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001, under an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001 or in the context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act.

(4) Subject to subsection (5), every -

(a) female agricultural worker of the age of 50 or over; or

(b) male agricultural worker of the age of 55 or over,

who has availed herself or himself of the optional retirement provision of paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983, shall be entitled to an actuarially calculated contributory retirement pension.

(5) The contributory retirement pension under subsection (4) shall be paid -

(a) in the case of a female agricultural worker -

(i) who has not reached the age of 55 at the time of retirement, as from the date she reaches the age of 55; or

(ii) who has reached the age of 55 or over at the time of retirement, as from the date of her retirement; or

(b) in the case of a male agricultural worker -

(i) who has not reached the age of 58 at the time of retirement, as from the date he reaches the age of 58; or

(ii) who has reached the age of 58 or over at the time of retirement, as from the date of his retirement.

(6) Every -

(a) female agricultural or non-agricultural worker who has not reached the age of 45; or

(b) male agricultural or non-agricultural worker who has not reached the age of 50,

at the time an offer of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001, of an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001 or in the context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act is accepted by the worker shall be entitled to an actuarially calculated contributory retirement pension.

(7) The actuarially calculated contributory retirement pension under subsection (6) shall be paid to -

(a) the female agricultural or non-agricultural worker as from the date she reaches the age of 45; or

(b) the male agricultural or non-agricultural worker as from the date he reaches the age of 50.

(8) Notwithstanding the National Pensions (Claims and payments) Regulations 1977, where entitlement to an actuarially calculated contributory retirement pension under subsection (6) arises before 1 September 2003, any arrears for the period prior to 1 September 2003 shall

be calculated in accordance with the Eighth Schedule.

- (9) The actuarially calculated contributory retirement pension under subsections (3), (4) or (6) shall be calculated in accordance with the Eighth Schedule.

21 Invalid's contributory pension.

- (1) Where an insured person—
- (a) has not reached retiring age; and
 - (b) is wholly or substantially disabled and is likely to be so disabled either permanently or for at least 12 months; he shall be entitled to an invalid's contributory pension.
- (2) The amount of the invalid's contributory pension shall be—
- (a) where the insured person has a dependent child, the amount calculated in accordance with the Third Schedule;
 - (b) where the insured person has no dependent child, two-thirds of the amount payable under paragraph (a).

22 Widow's contributory pension.

- (1) Subject to the other provisions of this section, where an insured person or a person in receipt of a contributory retirement pension, an invalid's contributory pension or a disablement pension dies and leaves a widow, the widow shall be entitled to a widow's contributory pension.
- (2) The contributory pension payable to a widow under the **retirement age** shall be—
- (a) for the 12 months immediately following the death of the husband or where she has a dependent child, the amount calculated in accordance with the Third Schedule.
 - (b) in any other case, two-thirds of the amount calculated in accordance with the Third Schedule.
- (3) The contributory pension payable to a widow who has reached the **retirement age** at her husband's death or on her reaching the **retirement age** thereafter shall be —
- (a) where the husband has reached the **retirement age** at the date of his death, the amount of the contributory retirement pension in accordance with the Third Schedule, payable to him or which would have been payable to him had he retired, before his death, provided that such amount shall not be less than the amount specified in the Second Schedule;
 - (b) where the husband has not reached the **retirement age** at the date of his death, the amount of the contributory retirement pension which would have been payable to him in accordance with the Third Schedule, as if he had been entitled to the pension at the date of his death, such amount being not less than the amount payable under subsection (2)(a) or (2)(b).
- (4) Subject to section 41, a widow's contributory pension shall be paid until the death of the widow.

(amended by Finance Act 2008. Effective from 1 July 2008)

23 Orphan's contributory pension.

- (1) Where an insured person dies leaving one or more orphans, each of the orphans shall be

entitled to an orphan's contributory pension as long as—

- (a) he is under the age of 15 or, where he is receiving full-time education, under the age of **20**; and ;(amended by Finance Act 2008.Effective from 1 July 2008)
 - (b) he is not married.
- (2) (a) Subject to paragraph (b), the orphan's contributory pension payable under subsection (1) shall be of an amount equal to 15 percent of —
- (i) the **contributory retirement pension** payable in accordance with the Third Schedule to the insured person referred to in subsection (1) at the time of his death;
 - (ii) the contributory retirement pension, which would have been payable to him in accordance with the Third Schedule had he elected to receive that pension;
 - (iii) repealed by The Finance (Miscellaneous Provisions) Act 2008
 - (iv) repealed by The Finance (Miscellaneous Provisions) Act 2008
 - (v) where no **contributory retirement pension** was payable under subparagraph (i), the **contributory retirement pension** to which that insured person would have been entitled had he reached the **retirement age** at the time of his death.
- (amended by Finance Act 2008.Effective from 1 July 2008)
- (b) Where both parents of a child for whom an orphan's contributory pension is payable under subsection (1) were, at the time of their deaths, insured persons, the pension shall be the higher of the pensions calculated under paragraph (a) in respect of either of the parents
- (c) An orphan's contributory pension shall be—
- (i) paid to the guardian of the orphan or such other person as the National Pensions Officer may determine; and
 - (ii) devoted by the person receiving it for the exclusive benefit of the orphan.

23A Lump sum payment.

- (1) A lump sum made up of contributions paid by a female insured person or an unmarried person, together with accrued interest as determined by such actuary as the Minister may appoint, shall be payable where that person dies before attaining the **retirement age** and no contributory pension is claimable. ;(amended by Finance Act 2008. Effective from 1 July 2008)
- (2) The lump sum shall be paid to the legal personal representatives of the deceased person.
- (3) In this section:—
 - "legal personal representative" includes a dependant;
 - "dependant" has the same meaning as in section 29.

PART V – INDUSTRIAL INJURY PENSIONS

24 Industrial injury.

- (1) Subject to subsection (2), where an employee suffers personal injury which is caused by —
 - (a) an accident arising out of and during the course of his employment; or
 - (b) a prescribed disease, being a disease due to the nature of his employment, he shall be deemed to have suffered industrial injury.

- (2) For the purposes of subsection (1) -
- (a) an accident arising in the course of employment shall be deemed, in the absence of evidence to the contrary, to have arisen out of that employment;
 - (b) "an accident arising out of and in the course of employment" shall include—
 - (i) an accident which occurs—
 - (A) while an employee is travelling as a passenger to or from his place of work in a vehicle or craft operated for that purpose by or on behalf of his employer, whether or not he is under an obligation to travel by such means;
 - (B) while an employee is taking steps, on an emergency at the place where he is employed, to rescue, help or protect a person who is, or is believed to be or to be about to be injured or imperilled, or to avert or minimise damage to property;
 - (C) at a time when an employee was contravening a law applicable to his employment or an order of his employer or was acting without instructions from his employer and which would have occurred even if the employee had not been so acting, where the contravention or act was for the purposes of, and in connection with, the employer trade or business or other activities;
 - (D) during a temporary interruption of work for a meal, rest or refreshment, where the accident happens in or about premises—
 - (I) occupied by the employer;
 - (II) to which the employee has, by virtue of his employment, a right of access during the temporary interruption of his work; or
 - (III) to which the employee is permitted to resort during the temporary interruption of his work by express or implied authorisation of his employer;
 - (ii) an accident which is caused by—
 - (A) another person's misconduct, negligence or imprudence;
 - (B) the behaviour or presence of an animal;
 - (C) an employee being struck by any object or any force of nature, and to which the employee has not contributed by an act extraneous to his employment;
 - (iii) a hernia—
 - (A) (I) which is clinical hernia of disabling character which appears to have recently occurred for the first time; or
 - (II) which is an aggravation or strangulation of pre-existent hernia resulting in immediate pain and disablement; and
 - (B) the onset of which was immediately preceded by a strain or an accident arising in any of the circumstances specified in subparagraphs (i) and (ii).

25 Industrial injury allowance.

- (1) Subject to subsection (3), where an employee suffers industrial injury which results in temporary total incapacity for work, he shall be entitled to an industrial injury allowance.

- (2) The industrial allowance shall be equal to 80 per cent of the employee's monthly earnings.
- (3) An industrial injury allowance shall not be paid in respect of the first 2 weeks of each period of incapacity.
- (4) Subject to subsection (6), where an industrial injury allowance is not payable under subsection (3) to an employee who has suffered industrial injury, his employer shall, within 2 weeks of receiving medical evidence of the incapacity, pay him a compensation for the whole period of the incapacity at the same rate that he was being remunerated at the time the industrial injury occurred.
- (5) Where an employee suffers industrial injury which results in total or partial temporary incapacity for work for a period not exceeding 2 weeks, his employer shall within 2 weeks of receiving a claim pay to him a sum equal to the reasonable expenses not exceeding 4000 rupees incurred in respect of medical and surgical attendances, first aid, physiotherapy and other essential treatment, which are rendered necessary as a result of the industrial injury.
- (6) The compensation under subsection (4) shall be paid for the whole period of total temporary incapacity irrespective of the fact that the whole or part of this period falls after the day on which the employment of the employee is terminated.
- (7)
 - (a) The industrial injury allowance shall cease to be payable as from the date the employee is found to be disabled by a Medical Officer or Medical Board appointed under section 34 or the Medical Tribunal established under section 36, as the case may be.
 - (b) Paragraph (a) shall not apply where the Medical Officer, the Medical Board or the Medical Tribunal, is satisfied that there has been a deterioration of the medical condition of the employee.
- (8) Notwithstanding subsection (7), no industrial injury allowance shall be payable in any circumstances after a period of 36 months, from the date on which the industrial injury occurred, except where a surgical intervention has to be performed after this period.

26 Disablement pension.

- (1)
 - (a) Subject to subsections (2) and (3) where an employee is disabled, he shall be entitled to a disablement pension.
 - (b) The pension under paragraph (a) shall be awarded in respect of the period the employee has been or expected to be disabled.
- (2) Subject to subsection (3), the disablement pension payable to an employee under subsection (1) shall be—
 - (a) where the disablement is 100 percent, equal to 80 percent of the employee's monthly earnings;
 - (b) where the disablement is less than 100 per cent, equal to 65 percent of the employee's monthly earnings multiplied by the percentage of his disablement.
- (3) Where the pension awarded under subsection 1(a) is—
 - (a)
 - (i) final;
 - (ii) the employee has not attained the **retirement age** on the day on which the industrial accident or prescribed disease occurs; and ;(amended by Finance Act 2008. Effective from 1 July 2008)
 - (iii) the disablement is less than 20 per cent; or
 - (b)
 - (i) permanent; and

- (ii) ***the employee has not attained the retirement age on the date on which the industrial accident or prescribed disease occurs and the period between that date and his retirement age does not exceed 8 years; and*** ;(amended by Finance Act 2008. Effective from 1 July 2008)
- (iii) the disablement is 100 per cent,

the employee may, within one month of the date on which the award is notified by post to him, elect to receive in lieu of that pension a lump sum payment as determined in accordance with subsection (4).

- (4) The lump sum payment to be made to an employee under subsection (3) shall be the product of –
 - (a) the number of years, not exceeding 8, for which a pension is awarded to him;
 - (b) his annual earnings; and
 - (c) the percentage of his disablement.

27 Other allowances.

- (1) Subject to the other provisions of this section, where an employee is entitled to an industrial injury allowance under section 25 or a disablement pension under section 26 he shall be paid, in addition to the allowance or pension –
 - (a) where as a result of the industrial injury, he suffers an incapacity or disablement of such a nature that he must have the constant personal attendance of another person, an allowance at the prescribed rate for the period during which that personal attendance is necessary, but not including any period during which the employee is maintained in any hospital or similar institution without charge to himself or to any other person;
 - (b) where, as a result of an industrial injury, the provision of an artificial aid to him becomes necessary or desirable, a sum sufficient to cover the cost of the artificial aid and its maintenance or renewal;
 - (c) where, as a result of the industrial injury, he suffers damage to–
 - (i) his natural teeth;
 - (ii) any artificial aid being used or worn by him at the time of the accident; or
 - (iii) clothing or spectacles being worn by him at the time of the accident;
 a sum sufficient to cover the reasonable cost in the case of damage–
 - (A) to natural teeth, of repairing the teeth or replacing them with an artificial denture; or
 - (B) to any artificial aid, clothing or spectacles, of repairing or, where necessary, replacing the artificial aid, clothing or spectacles;
 - (d)
 - (i) subject to subparagraph (ii), a sum equal to the reasonable expenses incurred during the period for which an allowance under section 25 is payable and in respect of medical and surgical attendances which are rendered necessary as a result of the industrial injury including first aid, physiotherapy and maintenance as a patient in a hospital or similar Government institution;
 - (ii) where the industrial injury requires urgent treatment at a private clinic, a sum equal to the reasonable expense incurred in respect of medical and surgical attendances, first aid and other treatment but not exceeding 4,000 rupees.
- (2) Any allowance payable under subsection (1) shall be determined by the National Pensions

Officer.

- (3) The allowance under subsection (1)(a) shall be payable, notwithstanding that the employee has elected to receive another benefit in lieu of an industrial injury allowance or a disablement pension.

28 Survivor's pension.

- (1) Subject to subsection (2) and (3) and to section 41, where an industrial injury results in the death of an employee and the employee leaves a surviving spouse, the spouse shall be entitled to a survivor's pension.
- (2) Subject to subsection (3), the survivor's pension payable shall be of an amount equal to half of the monthly earnings of the deceased employee.
- (3) No survivor's pension shall be payable to a widower unless he is wholly or substantially disabled and is likely to be so disabled either permanently, or for at least 12 months.

29 Benefits for orphan and other dependants.

- (1) Where an employee -
 - (a) dies as a result of industrial injury; and
 - (b) leaves one or more orphans,each orphan shall as long as -
 - (i) he is -
 - (A) under the age of 15; or
 - (B) in the case of an orphan who is receiving full-time education, under the age of 18; and
 - (ii) he is not married,be entitled to an orphan's industrial injury pension of an amount representing 15 per cent of half of the monthly earnings of the deceased employee but shall in no case be less than the orphan's pension payable under section 5.
- (2) An orphan's industrial injury pension shall be-
 - (a) paid to the guardian of the orphan or such other person as the National Pensions Officer may determine; and
 - (b) devoted by the person receiving it for the exclusive benefit of the orphan.
- (3) Where an industrial injury results in the death of an employee and the employee leaves no surviving spouse, but leaves a dependant, the dependant shall be paid a dependant's pension at the prescribed rate.
- (4) In subsection (3) -

"dependant", in relation to an employee, means a relative, other than an orphan, who was -

 - (a) living in the household; and
 - (b) wholly or partly dependant on the earnings of that employee at the time of his death;

"relative", in relation to an employee, includes his -

 - (a) ascendant or descendant, whether legitimate or natural;
 - (b) collateral to the second degree;
 - (c) stepfather, stepmother, stepson and stepdaughter.

30 Saving.

- (1) Nothing in this Part shall bar an action in damages under any other enactment in respect of industrial injury suffered by an employee.
- (2) Notwithstanding any other enactment, where in relation to an employee, a claim referred to in subsection (1) is made against an employer and the Court finds that the employee is entitled to damages, the amount to be awarded as damages shall be reduced by the value, as determined by the Court, of any disablement pension or other benefit payable to the employee under this Part.

PART VI – ADMINISTRATIVE, FINANCIAL AND GENERAL PROVISIONS

A. ADMINISTRATIVE

31 Establishment of the Board.

- (1) There is established, for the purposes of this Act, a National Pensions Board.
- (2) The Board shall consist of–
 - (a) a chairman to be appointed by the Minister;
 - (b) a representative of the Ministry of Finance;
 - (c) a representative of the Ministry of Health;
 - (d) a representative of the Ministry of Labour and Industrial Relations;
 - (e) a representative of the Ministry of Social Security;
 - (f) 2 representatives of employers in the sugar industry to be appointed by the Minister;
 - (g) 2 representatives of employers to be appointed by the Minister from among employers outside the sugar industry;
 - (h) 2 representatives of employees in the sugar industry to be appointed by the Minister after consultation with the appropriate trade unions;
 - (i) 2 representatives of employees outside the sugar industry to be appointed by the Minister after consultation with the appropriate trade unions.
- (3) Every member of the Board, other than an exofficio member, shall hold or vacate office on such terms and conditions as the Minister may determine.
- (4) Every member of the Board may be paid such allowance as the Minister may determine.

32 Functions of the Board.

- (1) The Board may of its own accord advise the Minister on any matter relating to this Act.
- (2) The Board shall advise the Minister on any matter referred to it by the Minister.

33 Duties of the Minister.

The Minister shall–

- (a) collect, in relation to insured persons, the contributions payable under section 17 or 18;

- (b) pay to every person who is entitled to a benefit, the appropriate benefit determined in accordance with this Act;
- (c) forward at such intervals as may be prescribed to every insured person a statement setting out the contributions the insured person has paid and the pension points which have accrued to him by virtue of the contributions so paid and calculated in accordance with paragraphs 1 and 2 of the Third Schedule.

34 Determination of claims to benefits.

- (1) Subject to section 36, the National Pensions Officer shall be the sole authority to determine claims to benefits under this Act and whether or not an employee has suffered industrial injury.
- (2) Where, on the determination of any claim to a benefit, a medical question arises the National Pensions Officer shall refer that question to a medical officer or Medical Board to be appointed by the Minister for advice before adjudicating upon the claim.
- (3)
 - (a) Where a claimant to a basic retirement pension or a contributory retirement pension is unable to supply proof of his age, he shall swear or solemnly affirm to an affidavit in the form set out in the Seventh Schedule.
 - (b) An affidavit under paragraph (a) shall be exempt from the payment of any duty, charge or fee.

34A Liability for payment of contribution.

- (1) The Minister shall, in respect of any specified period, determine whether—
 - (a) any person is or was an employee;
 - (b) contributions have been paid or are payable in respect of any person.
- (2) An interested person who is aggrieved by a decision under subsection (1) may appeal to the Appeal Tribunal.

35 Payment of benefits.

Any benefit payable under this Act shall—

- (a) except for a benefit payable under Part V, accrue as from the month in which the person becomes entitled to receive it;
- (b) be paid—
 - (i) in such manner and at such times; and
 - (ii) subject to such conditions,as may be prescribed.

35A Payment of benefit into bank account.

- (1) A benefit may, upon the written request by the person entitled to it, be paid to a bank to be credited to his bank account.
- (2) Subject to subsection (3), where a benefit has been paid into a bank account under subsection (1) and it is subsequently found by the National Pensions Officer that the benefit should not have been so paid, the bank shall, on written notice to that effect by the National Pensions Officer, refund the amount so paid to the Fund and may debit the bank account accordingly.

- (3) (a) Where the bank account is closed, the bank shall not be required to refund to the Fund the amount paid under subsection (1).
- (b) Where the amount standing in the bank account is less than the amount paid under subsection (1) the bank shall refund only the amount standing in the bank account.
- (4) Notwithstanding any other enactment but subject to subsection (5), where a refund is made under this section no action shall lie against the bank in respect of the amount so refunded.
- (5) Subsection (3) shall not prejudice any interested person from claiming from the Fund the amount refunded to it under this section.

36 Appeal Tribunal and Medical Tribunal.

- (1) There are established for the purposes of this Act–
 - (a) an Appeal Tribunal to which an appeal by a claimant against a decision of the National Pensions Officer or by an interested person against the decision of the Minister shall be referred;
 - (b) a Medical Tribunal to which an appeal against a decision of a medical officer or a Medical Board appointed under section 34(2) shall be referred.
- (2) The Appeal Tribunal shall consist of–
 - (a) a Chairman, who shall be legally qualified, to be appointed by the Attorney-General;
 - (b) 2 other members to be appointed by the Minister after consultation with representatives of employers and employees respectively.
- (3) (a) The Medical Tribunal may sit in one or more divisions.
- (b) Every division of the Medical Tribunal shall consist of –
 - (i) a Chairman who shall be legally qualified, to be appointed by the Attorney-General;
 - (ii) 2 other members, who shall be qualified medical practitioners, to be appointed by the Minister.
- (3) The Chairman and members of the Appeal Tribunal and the Medical Tribunal may be paid such fees as the Minister may approve.

B. FINANCIAL

37 National Pensions Fund.

- (1) There is established a National Pensions Fund which shall be administered by the Minister in accordance with the Finance and Audit Act.
 - (1a) The Fund shall, for the purposes of investment of any surplus of the Fund be deemed to be a body corporate.
 - (1b) For the purposes of subsection (1a), the Fund shall in any proceedings, judicial or otherwise be represented by the Permanent Secretary.
- (2) There shall be paid into the Fund –
 - (a) all contributions payable under section 17 or 18;
 - (b) all sums properly accruing to it, including–

- (i) all sums required to pay the benefits under Part II;
 - (ii) such other sums as may be approved by Parliament;
 - (c) subject to subsection 3(c), all payments made in accordance with section 5 of the National Savings Fund Act 1995.
- (3) There shall be paid out of the Fund–
- (a) the benefits payable under this Act;
 - (b) the cost of the administration of Parts III to VI;
 - (c) the money received under subsection (2)(c), for the purpose of the money being credited to the Fund established under the National Savings Fund Act 1995.

38 Investment of assets of the Fund.

- (1) Subject to the Finance and Audit Act, any surplus remaining in the Fund may be held on deposit with the Government or invested in such manner as the NPF and NSF Investment Committee set up under subsection (2) may determine, regard being had to–
- (a) the need for an appropriate level of liquidity in the Fund;
 - (b) the need to secure the future value of the Fund;
 - (c) the need for national development;
 - (d) any advice the NPF and NSF Investment Committee may receive from the Board.
- (2) There is set up for the purposes of determining the manner in which any surplus remaining in the Fund may be invested, a committee to be known as the NPF and NSF Investment Committee.
- (3) (a) The Committee under subsection (2) shall consist of –
- (i) the Financial Secretary who shall be the Chairperson;
 - (ii) 3 public officers appointed by the Minister; and
 - (iii) 3 representatives of employers and 3 representatives of employees, appointed by the Minister to whom responsibility for the subject of finance is assigned.
- (b) The persons referred to in paragraph (a)(ii) and (iii) shall have experience in fund management, actuarial science, accountancy or economics and shall be appointed on such terms and conditions as may be determined.
- (4) The Committee shall –
- (a) meet not less than once every month and at such time and place as the Chairperson thinks fit;
 - (b) regulate its meetings and proceedings in such manner as it thinks fit.
- (5) At any meeting of the Committee, 6 members shall constitute a quorum.
- (6) Without prejudice to subsection (1), the Minister may approve loans from the Fund to insured persons for the provision of housing or for such other purposes as the Minister may, after consultation with the Board, approve on such terms and conditions as may be prescribed.

38A Actuarial valuation.

The Minister shall, at intervals of not more than 5 years, cause an actuarial valuation of the Fund to be made by such actuary as the Minister may appoint, and shall determine, in the light of such valuation, whether an adjustment is necessary to secure the future value of the Fund.

39 Accounts of the Fund.

- (1) The Minister shall cause to be published in the Gazette duly audited accounts of the Fund annually setting out—
 - (a) the receipts and payments of the Fund;
 - (b) the assets and liabilities of the Fund with particular reference to any investment held by the Fund.
- (2) The accounts required to be published under subsection (1) shall be laid before the Assembly.

39A Pension cards.

The Minister shall, in relation to each person whose claim for a benefit has been allowed, issue a pension card which—

- (a) shall remain the property of the Government;
- (b) shall, on demand, be produced to the Minister; and
- (c) shall be surrendered to the Minister—
 - (i) where a person to whom a benefit is payable is unable to receive payment of the benefit and such person has not given a written authorisation to another person to receive that benefit; or
 - (ii) where that person is no longer entitled to a benefit.

C. GENERAL

40 Restriction on benefits.

Where a person is entitled to—

- (a) more than one benefit under this Act; or
- (b) a benefit under this Act and a benefit under any pension law,

he shall be entitled to receive only such benefit or such amount of a benefit as may be prescribed.

41 Remarriage of surviving spouse.

- (1) Where a person who is in receipt of a widow's contributory pension or a survivor's pension remarries, that person shall cease to be qualified to receive the pension.
- (2) Where a widow who has not reached the **retirement age** ceases to be qualified to receive a pension under subsection (1) on her remarriage, she shall be entitled to receive a lump sum payment equal to 12 times the pension. *;(amended by Finance Act 2008. Effective from 1 July 2008)*
- (3) Subject to subsection (4), where—
 - (a) a widow has ceased to be qualified to receive a pension under subsection (1) on her remarriage; and
 - (b) (i) the marriage is dissolved; or
(ii) she is judicially separated,she shall be entitled to receive the widow's contributory pension or survivor's pension which was payable to her immediately before her remarriage, whichever is the higher.
- (4) Where a widow who is entitled to a pension under subsection (3) is also entitled, on her divorce or judicial separation from her second husband, to alimony, the amount of the

pension shall be reduced by the amount of alimony.

42 **Plurality of benefits.**

- (1) Where a widow who is entitled to receive either–
 - (a) a widow's contributory pension; or
 - (b) a survivor's pension,becomes entitled to a contributory retirement pension, she shall be entitled to receive both the contributory retirement pension and the pension specified in paragraph (a) or (b).
- (2) Where a widower who is entitled to a survivor's pension becomes entitled to a retirement pension, he shall be entitled to receive either–
 - (a) the retirement pension payable to him by virtue of contributions he has paid as an insured person, or
 - (b) a retirement pension equal to the amount of the retirement pension payable to his deceased spouse at the time of her death or which would have been payable to her had she reached the **retirement age** immediately before her death; or (*amended by Finance Act 2008. Effective from 1 July 2008*)
 - (c) the survivor's pension, whichever is the higher.

42A **Increase in the amount of pensions.**

At the beginning of every benefit year any contributory pension, disablement pension, survivor's pension or orphan's industrial injury pension already in payment or which is payable but not in payment may be increased by such percentage as the Minister may prescribe.

43 **Protection.**

No liability shall lie against any member of the Board, the Medical Board, the Appeal Tribunal, the Medical Tribunal or a medical officer in respect of any act done or omitted to be done in good faith in the execution of his functions under this Act.

44 **Benefit not to be assigned or attached.**

- (1) Notwithstanding any other enactment but subject to subsection (4), a contribution or benefit payable under this Act shall not be assigned, transferred, ceded, pledged, delegated, attached or levied upon in any respect.
- (2) Where a person who is in receipt of a benefit is adjudged bankrupt or is allowed to make a *cessio bonorum*, the benefit shall not pass to a trustee, assignee or other person acting on behalf of his creditors.
- (3) Article 1289 of the Code Napoleon shall not apply to contributions payable under sections 17 and 18.
- (4) Subject to such conditions as may be prescribed, where a person has received, under this Act, the Family Allowance Act, the Social Aid Act or the Unemployment Hardship Relief Act, sums to which he is not entitled, those sums may be recovered from the amount of any benefit to which that person may later become entitled under this Act.
- (5) On the death of a person entitled to a benefit under this Act the amount of the benefit shall be paid to –
 - (a) the surviving spouse of the deceased;
 - (b) in the absence of a surviving spouse, the children of the deceased;in the absence of a surviving spouse or children, the other legal personal representatives.

- (6) (a) Where the deceased person leaves no surviving spouse, child or other legal personal representative as is referred to in subsection (5), an amount not exceeding one month's benefit which has accrued to the deceased person shall be paid to any person who furnishes satisfactory evidence to show that the funeral expenses incurred in connection with the death of the deceased person have been borne by him.
- (b) A claim under paragraph (a) shall be made—
 - (i) in such form as the Minister may approve; and
 - (ii) not later than 3 months after the death of the deceased person.

45 Offences.

- (1) Any person who—
 - (a) for the purposes of or in connection with a claim for a benefit either for himself or on behalf of any other person, knowingly—
 - (i) makes a false statement or a statement which he knows or ought to have known to be false in any material particular;
 - (ii) makes a false representation; or
 - (iii) fails to disclose a material fact;
 - (b) fails within the prescribed time limit to pay contributions;
 - (c) otherwise fails to comply with this Act or any subsidiary enactment made under this Act, shall commit an offence.
 - (2) (a) On conviction for an offence under subsection (1)(a) or (c), a person shall be liable to a fine not exceeding 5000 rupees and to imprisonment for a term not exceeding 3 months or in the case of an offence under a subsidiary enactment, to such fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months as may be specified in the subsidiary enactment.
 - (b) On conviction for an offence under subsection (1)(b), a person shall be liable -
 - (i) in the case of a person who employs an employee in domestic service, to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months; or
 - (ii) in any other case, to a fine equal to the amount of the unpaid contributions or 50,000 rupees, whichever is the higher, and to imprisonment for a term not exceeding 12 months.
 - (c) On conviction for an offence under subsection (1)(b) or (c), a person shall, in addition to any penalty imposed upon him under this subsection, be ordered to pay to the Minister the amount of any unpaid contribution or surcharge.
 - (d) On conviction for an offence under section 25(4), a person shall, in addition to any penalty imposed upon him, be ordered to pay to that employee the remuneration due to him.
- (3) An order made under subsection (2)(c) may be enforced in the same manner as a judgment delivered by a court in its civil jurisdiction.
 - (4) Where a person has received a benefit to which he is not entitled or which he was not qualified to receive or was disqualified from receiving, the amount of the benefit may be recovered by the Minister in accordance with section 45B.

45A Surcharge on late contributions or late returns.

- (1) Without prejudice to any legal proceedings which may be instituted under section 45, where an employer fails, within the prescribed time, to pay to the Minister the whole or part of any contributions payable under section 17, he shall pay a surcharge at the rate of 5 per cent or such other rate as may be prescribed for each month or part of the month during which any contributions remained unpaid, unless the amount of unpaid contributions does not exceed 10 percent of the total amount of contributions payable or 120 rupees, whichever is the lesser.
- (2) No surcharge payable under subsection (1) shall be recoverable by the employer from any employee.
- (3) The Minister may exempt from payment of the surcharge—
 - (a) any person who under any enactment in force enjoys immunity from payment of penalties;
 - (b) any religious or charitable institutions;
 - (c) such cases as may be prescribed.
- (4) For the purposes of determining whether a surcharge is leviable under this section—
 - (a) where payment of a contribution is made by post, the contribution shall be deemed to have been made on the date of the postmark;
 - (b) where payment of a contribution is not effected by reason of a misdirection by an authorised officer, the payment shall be made within 20 days of the date on which the misdirection is notified to the employer;
 - (c) where liability for payment of contributions is being determined by the Minister under section 34A or by the Appeal Tribunal, the payment shall be made within 20 days of the date of the notification of the decision of the Minister or the Appeal Tribunal.
- (5) Where an employer other than a person who employs an employee in domestic service fails, within the prescribed time, to submit to the Minister such monthly return or annual return as may be prescribed, he shall be liable to pay to the Minister -
 - (a) in the case of a monthly return, a surcharge of one percent of the total contributions payable under section 17 or 200 rupees, whichever is the lesser, for every day until the return in respect of each insured person for that month is submitted, provided that the total amount of surcharge shall-
 - (i) not exceed the total amount of contributions payable or 20,000 rupees, whichever is the lesser; and
 - (ii) be not less than 500 rupees; or
 - (b) in the case of an annual return, a surcharge of 5,000 rupees or Rs 500 for every day until the return for that year is submitted, whichever is the higher, provided that the total surcharge shall not exceed 50,000 rupees.

45B Recovery of contributions, surcharge or benefit.

- (1) Subject to subsection(2), The Permanent Secretary may, without prejudice to any other remedy which the Minister may have, recover any unpaid contributions, surcharge or benefit in the same manner as income tax is recoverable under Part XI of the Income Tax Act 1995.
- (2) Sections 137, 141 and 142 of the Income Tax Act 1995 shall not apply to the recovery of contributions, surcharge or benefit.

45C Arrears of contribution.

Where an employer has been ordered to pay any arrears of contribution or surcharge, he shall not be entitled to recover that amount from any employee.

45D Jurisdiction.

- (1) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try all offences under this Act or any regulations made thereunder and may impose any penalty provided by this Act or those regulations.
- (2) Notwithstanding any other enactment, any civil or criminal proceedings instituted under this Act shall, in the Island of Mauritius, be entered before the District Court of Port Louis.

45E Franking of documents.

A person may send post free to the Minister any document required for the purposes of this Act.

45F Certificate admissible in evidence.

In any proceedings, a certificate under the hand of the Permanent Secretary to the effect that a person has not paid contributions or has refused or failed to produce a document when required to do so under this Act or any subsidiary enactment made under this Act, shall unless the contrary is proved, be evidence of the fact that that person has not paid such contributions or has refused or failed to produce the document, as the case may be.

45G Authentication of documents.

The production of any document under the hand of the Permanent Secretary purporting to be a copy of or extract from any return, record or other document shall in all proceedings be admissible as evidence, and the production of the original shall not be necessary.

45H Keeping of register.

- (1) Every employer shall keep a register in which he shall—
 - (a) enter the name, occupation, National Identity Number and age of every employee in his employment;
 - (b) enter the insurable wage or salary paid to every employee; and
 - (c) cause the employee to affix his signature or thumbprint on payment of his insurable wage or salary.
- (2) Every employer shall, at the request of a public officer authorised by the Minister, produce the register under subsection (1) for the purpose of ascertaining whether any contributions are payable.

45I Persons leaving Mauritius.

- (1) Where the Permanent Secretary has reason to believe that a person is likely to leave Mauritius without paying the contributions due by him, he may issue a certificate containing particulars of the contributions due and a direction to the Immigration Officer to prevent that person from leaving Mauritius without paying the contributions or without giving security for the payment of the contributions to the satisfaction of the Permanent Secretary.
- (2) The Immigration Officer shall, on receipt of a certificate under subsection (1), take or cause to be taken by any police officer, such measures as may be necessary to prevent the person named in the certificate from leaving Mauritius until payment of the contributions has been made or secured, including the use of such force as may be necessary and the seizure, removal or retention of any passport or other travel document relating to that person or of any exit permit or other document authorising that person to leave Mauritius.

45J Power to summon.

- (1) The Permanent Secretary may, by written notice, summon any person who he believes can give information relating to the administration or enforcement of this Act—
 - (a) to attend at such place and time as may be specified in the notice and to produce any document which the Permanent Secretary may require; or
 - (b) to give orally or in writing all such information as may be demanded of him by the Permanent Secretary.
- (2) Any person summoned under subsection (1) who—
 - (a) fails to attend at the time and place specified in the notice;
 - (b) refuses to answer faithfully any questions put to him by the Permanent Secretary;
 - (c) gives any false or misleading information; or
 - (d) refuses to produce a document required by the Permanent Secretary, shall commit an offence.

45K Cessation of Business.

- (1) Where an employer becomes aware that he will cease to carry on any trade, business or occupation, whether voluntarily or otherwise, he shall forthwith give written notice thereof to the Minister and specify in the notice the date on which the cessation will, or is likely to, have effect.
- (2) Subject to subsection(3), an employer referred to in subsection(1) shall, not later than 15 days after the date of cessation -
 - (a) submit such monthly return or annual return as may be prescribed, notwithstanding the fact that the date on which the return would normally be submitted has not occurred; and
 - (b) pay any contributions or surcharge payable.
- (3) Where a person is appointed to manage or wind up the trade, business or occupation of an employer referred to in subsection(1) as administrator, executor, receiver or liquidator, that person shall comply with the provisions of subsection(2).

46 Regulations.

- (1) The Minister may, after consultations with the Board—
 - (a) make such regulations as he considers necessary for the purposes of this Act;
 - (b) by regulations amend the Schedules;
 - (c) by regulations amend this Act for the purpose of giving effect to any agreement with the government of any country outside Mauritius providing for reciprocity in matters relating to payments provided under this Act in order to—
 - (i) secure that acts, omissions and events having any effect for the purpose of the law relating to social security in the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act;
 - (ii) determine in cases where rights accrue both under this Act and the law of that country, the rights which shall be available to the person concerned; and
 - (iii) make any necessary financial adjustments.

- (2) Regulations made under subsection(1) may provide that any person who contravenes those regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

47 **Workmen's Compensation Act.**

- (1) Subject to subsection (2), the Workmen's Compensation Act shall not apply to an employee.
- (2) Subsection (1) shall not affect–
- (a) the rights of any person in respect of any accident occurring or disease contracted before he became an employee;
 - (b) a person's eligibility to any compensation payable under the Workmen's Compensation Act in respect of temporary partial incapacity.

48 **Transitional provisions.** *(amended by Finance Act 2008. Effective from 1 July 2008)*

- (1) The Sugar Industry Pension Fund established under the Sugar Industry Pension Fund Act shall, in relation to the category of persons who were members of that Fund and are specified in regulations for the purpose of Part III, pay into the National Pensions Fund–
- (a) the value of all contributions paid to the Sugar Industry Pension Fund on or after 1 January 1974, in respect of the remuneration as defined in this Act; and
 - (b) such additional sums as the Minister may require in respect of accrued interest or share of bonuses.
- (2) Subject to subsection (3), any payment made under subsection (1) in respect of an insured person, together with accrued interest on that payment as determined by such actuary as the Minister may appoint, shall be paid as a lump sum from the Fund–
- (a) to that insured person–
 - (i) on his reaching the **retirement age**; or
 - (ii) on his retiring from work on the ground of ill health and his receiving –
 - (A) a gratuity under paragraph 20(1)(b) of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations or under paragraph 14(1)(b) of the Second Schedule to the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations; or
 - (B) a permanent disablement pension under Part V in respect of the disablement that resulted in his retiring from work;
 - (iii) on his voluntary termination of his contract of employment in the context of the Voluntary Retirement Scheme pursuant to section 23, or the Early Retirement Scheme pursuant to section 23A, of the Sugar Industry Efficiency Act 2001 or of a factory closure on or after 1 July 2006 pursuant to section 24 of the Cane Planters and Millers Arbitration Control Board Act;
 - (b) where that insured person dies before reaching the **retirement age**, in accordance with subsection (4)(a);
 - (c) where that insured person is–
 - (i) a male worker who retires on or after reaching the age of 55; or
 - (ii) a female worker who retires on or after reaching the age of 50, and who is in receipt of a gratuity under paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations.

- (3) (a) Where a lump sum is payable under subsection (2) to an insured person on his reaching the **retirement age**, the insured person may, at any time before the lump sum is paid, elect to receive a pension in lieu of the lump sum.
- (b) The pension payable under paragraph (a) shall be calculated by-
- (i) expressing as pension points the payment made in respect of the insured person under subsection (1) by dividing that payment by 10.8 rupees; and
 - (ii) multiplying those pension points by the value in rupees of one pension point, that value being the current value prescribed by the Minister for the purpose of paragraph 1 of the Third Schedule at the time the insured person reaches the **retirement age**.
- (c) One-twelfth of the pension calculated under paragraph (b) shall be paid each month from and including the month in which the insured person reaches the **retirement age**.
- (4) (a) Subject to paragraphs (b), (c), (d) and (e), where an insured person who has not elected under subsection (3)(a) to receive a pension in lieu of a lump sum dies before receiving the lump sum under subsection (2), the lump sum shall be paid, in equal shares, where appropriate, to –
- (i) the surviving spouse or spouses;
 - (ii) in the absence of a surviving spouse, the children; or
 - (iii) in the absence of a surviving spouse or child, the legal personal representative.
- (b) Where an insured person who has elected under subsection (3)(a) to receive a pension in lieu of a lump sum dies and the amount received by way of pension is less than the amount of the lump sum which would have been paid under subsection (2), the difference in these amounts shall be paid in accordance with paragraph (a).
- (c) No payment exceeding 1,000 rupees shall be made under this subsection until the expiry of 3 months from the date on which the insured person died.
- (d) Where a payment has been made under this subsection, no further liability in respect of the payment under paragraph (a) or (b) shall lie with the Fund or the Minister.
- (e) This subsection shall not be construed as prejudicing or precluding any claim in relation to the payment under paragraph (a) or (b) which any person may have against the person to whom the payment was made.
- (5) Any payment required to be made under this section shall be paid out of the Fund.

FIRST SCHEDULE (amended with figures effective from 1 July 2009)

(Sections 2, 13, 17, 18)

<i>Insured Persons</i>	<i>Contributions payable</i>		<i>Minimum remuneration in respect of which contributions are payable</i>	
	<i>by employee</i>	<i>by employer</i>		
1.(a) Every prescribed employee in the Sugar Industry	3%	10 ½ %	in respect of an employee in domestic service	in respect of an employee other than in domestic service
(b) Every other prescribed employee (higher rate)	5%	8 ½ %		
2. Every other employee (standard rate) other than -	3%	6%	(I)	(I)
(a)(i) a public officer in respect of his function as such;			Rs 42 paid for one day's work	Rs 67 paid for one day's work
(ii) an employee of a local authority in respect of his function as such and which entitles him to a pension or a compassionate allowance under a pension law;			(ii) Rs 254 paid for one week's work	(ii) Rs 404 paid for one week's work
(b) any person whose employment entitles him to a pension or a compassionate allowance under a pension law by reason of such employment;			(iii) Rs 508 paid for one fortnight's work	(iii) Rs 808 paid for one fortnight's work
(c) an employee who is a member of a pension fund or scheme of an approved body where that fund or scheme has been managed by the State Insurance Corporation of Mauritius since before 2 July 1978, in respect of any employment in relation to which payments are made to the pension fund or scheme, unless the Minister in regulations provides otherwise;			(iv) Rs 550 paid for a half month's work	(iv) Rs 875 paid for a half month's work
(d) an employee who is employed exclusively on Saturday, Sunday or any other public holiday.			(v) Rs 1100 paid for one month's work	(v) Rs 1750 paid for one month's work
3. Every self-employed, non-employed or prescribed person.			<i>In multiple of Rs5, not below Rs 105 and not exceeding Rs 640</i>	

SECOND SCHEDULE (amended with figures effective from 1 January 2010)**(Sections 11 and 20)****Rates of basic pensions and minimum contributory retirement pension**

		<i>Rate per month Rs</i>
1.	Basic retirement pension – (a) for a person aged between 60 and below 90 years (b) for a person aged between 90 and below 100 (c) for a person aged 100 years and above	3,146 9,357 10,621
2.	Widow's basic pension	2,833
3.	Orphan's pension (i) For an orphan up to 15 not in full time education (ii) For an orphan aged between 3 and 20 in full time education	1,569 2,888
4.	Guardian's allowance	691
5.	Child's allowance – (a) for a child under the age of 10 years (b) for a child aged 10 and above	918 983
6.	Invalid's basic pension	2,833
7.	Carer's allowance for a beneficiary of an invalid's basic pension who needs constant care and attention of another person	1,715
8.	Inmate's allowance to an inmate of a charitable institution	486
9.	Carer's allowance for a beneficiary of basic retirement pension who is disabled to an extent of not less than 60 per cent and who needs constant care and attention of another person	1,982
10.	Minimum contributory retirement pension	425

THIRD SCHEDULE

(sections 2, 20, 21, 22, 23,33 AND 48)

1. Calculation of contributory pensions.

- (i) For the purpose of calculating a contributory pension—
an incomplete year shall be reckoned as 1/12th year for each completed month, and where there is no completed month, the uncompleted month shall reckon as 1/26th of a month for each day, excluding Sunday;
- (ii) "amount of remuneration producing one pension point" means the amount prescribed by the Minister for the relevant financial year;
- (iii) "average rate" means the average rate at which pension points accrue to an insured person over the prescribed period;
- (iv) "~~benefit year~~" (deleted by The Finance Act 2008. Effective from 1 July 2008)
- (v) "date of entry" means such date as may be prescribed by the Minister;
- (vi) "financial year" means the period from 1 July to the following 30 June inclusive;
- (vii) "relevant benefit year" means the financial year in which entitlement to the pension arises; *(amended by Finance Act 2008. Effective from 1 July 2008)*
- (viii) "relevant financial year" means the financial year ending immediately before the beginning of the relevant benefit year;
- (ix) "value in rupees of one pension point" means the value prescribed by the Minister for the relevant benefit year.

2 Pension Points.

The pension points accruing to an insured person in a financial year shall be determined by dividing his remuneration in that year by the amount of remuneration producing one pension point and, for this purpose, a self-employed, non-employed or prescribed person shall be deemed to have had remuneration at the rate of Rs 1,000 for every Rs 60 contributions paid in the year.

3 Calculation of contributory retirement pension *(amended by Finance Act 2008. Effective from 1 July 2008)*

(1) For the purpose of calculating the contributory retirement pension, the pension points accruing to an insured person shall be -

- (a) in the case of a person of the age of 40 or over on the date of entry, his pension points shall be computed as if they had accrued to him, at their average rate, for twice the number of years, not exceeding 20, since the date of entry;
- (b) in the case of a person over the age of 20 but under the age of 40 on the date of entry, his pension points shall be the sum of –
 - (i) the pension points accrued to him from the date of entry to 30 June 2008, but computed as if they had accrued to him, at their average rate, for 40 years;
 - (ii) the pension points accrued to him from 01 July 2008 to the end of the financial year preceding his 60th birthday, but computed as if they had accrued to him, at their average rate, for 40 years;

- (iii) the pension points accrued to him from the financial year in which he attains 60 years until the end of the financial year preceding the date he elects to receive his pension or the end of the financial year preceding his retirement age, whichever is earlier; and
 - (iv) the pension points accrued to him from the financial year of his retirement age until his final retirement age;
- (c) in the case of a person aged 20 years or less on the date of entry, his pension points shall be the sum of -
- (i) the pension points accrued to him from his 18th birthday to 30 June 2008;
 - (ii) the pension points accrued to him from 01 July 2008 to the end of the financial year preceding the date he elects to receive his pension or the end of the financial year preceding his retirement age whichever is earlier; and
 - (iii) the pension points accrued to him from the financial year of his retirement age until his final retirement age.
- (2) Where the person was over the age of 20 but under the age of 40 on the date of entry and the contributory retirement pension becomes payable -
- (a) at the age of 60 years, the pension shall be-
 - (i) the pension points at (1)(b)(i) *multiplied* by the value in rupees of one pension point; and
 - (ii) the pension points at (1)(b)(ii) *multiplied* by the value in rupees of one pension point;

less

 - (iii) the value arrived at (ii) *multiplied* by the appropriate Early Retirement Reduction Factor specified in paragraph 5;
 - (b) after the age of 60 but on or before the retirement age, the pension shall be-
 - (i) the pension points arrived at (1)(b)(i) *multiplied* by the value in rupees of one pension point;

plus

 - (ii) the value arrived at (i) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and
 - (iii) the pension points at (1)(b)(ii) and (1)(b)(iii) *multiplied* by the value in rupees of one pension point;

less

 - (iv) the value arrived at (iii) *multiplied* by the appropriate Early Retirement Reduction Factor specified in paragraph 5;
 - (c) after the retirement age, the pension shall be -
 - (i) the pension points arrived at (1)(b)(i) *multiplied* by the value in rupees of one pension point;

plus

(ii) the value arrived at (i) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and

(iii) the pension points arrived at (1)(b)(ii) *multiplied* by the value in rupees of one pension point;

plus

(iv) the value arrived at (iii) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and

(v) the value arrived at (1)(b)(iii) *multiplied* by the value in rupees of one pension point ;

plus

(vi) the value arrived at (v) *multiplied* by the appropriate Late Retirement Increase Factor specified in paragraph 6; and

(vii) the pension points at (1)(b)(iv) *multiplied* by the value in rupees of one pension point.

(3) Where the insured person was aged 20 years or less on the date of entry and the contributory retirement pension becomes payable -

(a) at the age of 60 years; the pension shall be -

(i) the pension points at (1)(c)(i) *multiplied* by the value in rupees of one pension point; and

(ii) the pension points at (1)(c)(ii) multiplied by the value in rupees of one pension point;

less

(iii) the value arrived at (ii) multiplied by the appropriate Early Retirement Reduction Factor specified in paragraph 5;

(b) after the age of 60 but on or before the retirement age, the pension shall be-

(i) the pension points at (1)(c)(i) multiplied by the value in rupees of one pension point;

plus

(ii) the value arrived at (i), multiplied by the appropriate Late Retirement Increase Factor specified in paragraph 6; and

(iii) the pension points at (1)(c)(ii) multiplied by the value in rupees of one pension point;

less

(iv) the value arrived at (iii) multiplied by the appropriate Early Retirement Reduction Factor specified in paragraph 5;

(c) after the retirement age, the pension shall be -

(i) the pension points at (1)(c)(i) multiplied by the value in rupees of one pension point;

plus

(ii) the value arrived at (i) multiplied by the appropriate Late Retirement Increase Factor specified in paragraph 6; and

(iii) the pension points at (1)(c)(ii) multiplied by the value in rupees of one pension point;

plus

(iv) the value arrived at (iii) multiplied by the appropriate Late Retirement Increase Factor specified in paragraph 6; and

(v) the pension points at (1)(c)(iii) multiplied by the value in rupees of one pension point.

4. Calculation of– *(amended by Finance Act 2008. Effective from 1 July 2008)*

(a) contributory invalidity pension; and

(b) widow's contributory pension, payable to a widow under the **retirement age**.

The amount of pension payable shall be the value in rupees of one pension point multiplied by the aggregate number of pension points accruing to the insured person at the end of the **financial year immediately preceding the date of entitlement**, provided that–

(i) in the case of an insured person of the age of 40 or over on the date of entry, his pension points shall be computed as if they had accrued to him, at their average rate, until the end of the financial year preceding his sixtieth birthday;

(ii) in the case of an insured person who is under the age of 21 when the pension becomes payable, his pension points shall be computed at twenty times the highest number of points that had accrued to him in either the current or any of the preceding financial years;

(iii) in any other case where the pension becomes payable before 20 years have lapsed since the date of entry, his pension points shall be computed as if they had accrued to him, at their average rate, for 20 years.

5 Retirement Reduction Factor *(added by Finance Act 2008. Effective from 1 July 2008)*

Where the contributory retirement pension becomes payable before the retirement age, the Early Retirement Reduction Factor shall be -

(i) number of months from date the pension becomes payable to the month preceding the date of the retirement age x 0.45%;

(ii) for the purpose of subparagraph (i), part of a month shall be reckoned as a complete month.

6 Late Retirement Increase Factor *(added by Finance Act 2008. Effective from 1 July 2008)*

Where the contributory retirement pension becomes payable after the age of 60, the Late Retirement Increase Factor shall be, where the pension points used in the calculation of the pension have accrued -

- (i) before 1 July 2008, the number of months from the 60th birthday to the month preceding the date the pension becomes payable multiplied by $\frac{8}{12}$ % ;*
- (ii) from 01 July 2008, the number of months from the date of retirement age to the month preceding the date the pension becomes payable multiplied by $\frac{8}{12}$ %;*
- (iii) for the purpose of subparagraphs (i) and (ii), part of a month shall be reckoned as a complete month.*

FOURTH SCHEDULE

(section 2)

APPROVED BODIES

- 1 Agricultural Marketing Board
- 2 Bank of Mauritius
- 3 Central Electricity Board
- 4 Central Housing Authority
- 5 Central Water Authority
- 6 Development Bank of Mauritius
- 7 Development Works Corporation
- 8 Ex-Servicemen Welfare Fund
- 9 Mahatma Gandhi Institute
- 10 Mauritius Broadcasting Corporation
- 11 Mauritius College of the Air
- 12 Mauritius Co-operative Central Bank
- 13 Mauritius Co-operative Union Ltd.
- 14 Mauritius Housing Corporation
- 15 Mauritius Institute of Education
- 16 Mauritius Marine Authority
- 17 Mauritius Meat Authority
- 18 National Federation of Young Farmers' Club
- 19 Nouvelle France Tea Estate Board
- 20 Private Secondary Schools Authority
- 21 State Commercial Bank Ltd.
- 22 State Insurance Corporation of Mauritius
- 23 Sugar Industry Development Fund
- 24 Sugar Industry Labour Welfare Fund
- 25 Sugar Insurance Fund Board
- 26 Sugar Planters' Mechanical Pool
- 27 Tea Board
- 28 Tea Development Authority
- 29 Tobacco Board
- 30 Town and Country Planning Board
- 31 University of Mauritius
- 32 Valuation Tribunal
- 33 Widows' and Children's Pension Scheme Board

FIFTH SCHEDULE (amended with figures effective from 1 July 2009)

(section 2)

Remuneration means–

- (a) In respect of a monthly pay period, the insurable wage or salary of the insured person not exceeding **10095** rupees;
- (b) In respect of a half monthly pay period, the insurable wage or salary of the insured person not exceeding **5048** rupees;
- (c) In respect of a fortnightly pay period, the insurable wage or salary of the insured person not exceeding **4659** rupees;
- (d) In respect of a weekly pay period, the insurable wage or salary of the insured person not exceeding **2330** rupees;
- (e) In respect of a daily pay period, the insurable wage or salary of the insured person not exceeding **388** rupees;
- (f) In respect of any other period, the insurable wage or salary of the insured person, not exceeding the sum arrived at by multiplying 388 by the number of days in that pay period, excluding Sundays.

SIXTH SCHEDULE

(section 8)

INJURY	PERCENTAGE OF DISABLEMENT
Loss of 2 limbs	}
Loss of both hands, or of all fingers and both thumbs	}
Total loss of sight	} 100
Total paralysis	}
Injuries resulting in being permanently bedridden	}
Any other injury causing permanent total disablement	}
Loss of arm at shoulder	60
Loss of arm between elbow and shoulder	50
Loss of arm at elbow	47 ½
Loss of arm between wrist and elbow	45
Loss of hand at wrist	42 ½
Loss of 4 fingers and thumb of one hand	42 ½
Loss of 4 fingers	35
Loss of thumb—	
both phalanges	25
one phalanx	10
Loss of index fingers—	
3 phalanges	10
2 phalanges	8
one phalanx	4
Loss of middle finger—	
3 phalanges	6

2 phalanges	4
one phalanx	2
Loss of ring finger–	
3 phalanges	5
2 phalanges	4
one phalanx	2
Loss of little finger–	
3 phalanges	4
2 phalanges	3
one phalanx	2
Loss of metacarpals–	
first or second (additional)	3
third, fourth or fifth (additional)	2
Loss of leg at hip	70
Loss of leg between knee and hip	40 to 70
Loss of leg below knee	30 to 42 ½
Loss of toes–	
all	15
great, both phalanges	5
other than great, if more than one toe lost, each	1
Eye: loss of–	
whole eye	30
sight	30
sight – except perception of light	30
lens	20
Loss of hearing–	
both ears	60
one ear	7

The total permanent loss of use of a member shall be treated as loss of that member.

SEVENTH SCHEDULE

(section 34)

In the District Court of

AFFIDAVIT UNDER SECTION 34(3) OF THE NATIONAL PENSIONS ACT 1976

I,....., of.....

Make oath/solemn affirmation and say–

That to the best of my knowledge and belief, I was born on or about the year..... and am of the age of.....

Sworn/solemnly affirmed by
the above-named deponent on

the..... day of.....20.....

Before me,

District Magistrate

EIGHTH SCHEDULE

(sections 2 and 20(8) and (9))

Calculation of Contributory Retirement Pension

1. For the purpose of calculating a Contributory Retirement Pension under section 20(3), (4) and (6)-

- (a) an incomplete year shall be reckoned as 1/12th year for each completed month;
- (b) the following definitions shall have the same meaning as defined in the Third Schedule-
 - (i) "amount of remuneration producing one pension point";
 - (ia) "average rate";
 - (ii) "~~benefit year~~" (*deleted by The Finance Act 2008. Effective from 1 July 2008*);
 - (iii) "financial year";
 - (iv) "relevant benefit year";
 - (v) "value in rupees of one pension point";
- (c) ~~actual financial year~~ (*deleted by The Finance Act 200. Effective from 1 July 2008*)
- (d) ~~actual number of pension points~~ (*deleted by The Finance (Miscellaneous provisions) Act 2008. Effective from 1 July 2008*)
- (e) "date of entry" means -
 - (i) where contributions were first payable between 1 July 1978 and 30 June 1980, the date on which the contributions were first payable or the beginning of the financial year in which the insured person attains the age of 19, whichever is the later;
 - (ii) where contributions were first payable on or after 1 July 1980, the beginning of the financial year in which the insured person attains the age of 19 or 1 July 1980, whichever is the later.
- (f) "date of retirement" in relation to a sugar industry worker, means-
 - (i) for the purpose of section 20(3) and (6), the date the contract of employment is voluntarily terminated by the worker under section 23 or 23A of the Sugar Industry Efficiency Act 2001 or in the context of a factory closure taking place pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act;
 - (ii) for the purpose of section 20(4), the date the worker retires under the paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983.

2. Pension points

- (1) ***The pension points accruing to an insured person in a financial year shall be determined by dividing his remuneration in that year by the amount of remuneration producing one pension point.***
- (2) ***For the purpose of calculating the contributory retirement pension, the pension points accruing to an insured person shall be -***
 - (a) ***in the case of a person over the age of 20 but under the age of 40 on the date of entry, his pension points shall be the sum of -***

- (i) *the pension points accrued to him from the date of entry to 30 June 2008 but computed as if they had accrued to him at their average rate, for 40 years; and*
 - (ii) *the pension points accrued to him from 1 July 2008 to his date of retirement from work but computed as if they had accrued to him, at their average rate, for 40 years; or*
- (b) *in the case of a person aged 20 years or less on the date of entry, his pension points shall be the sum of -*
- (i) *the pension points accrued to him from his 18th birthday to 30 June 2008; and*
 - (ii) *the pension points accrued to him from 1 July 2008 to his date of retirement from work.*

(amended by Finance Act 2008. Effective from 1 July 2008)

3. Retirement Reduction Factor *(amended by Finance Act 2008. Effective from 1 July 2008)*

The contributory retirement pension calculated under paragraph 4 (1) shall be reduced by a Retirement Reduction Factor of an amount equal to –

Share of pension produced by contributions accrued from 1 July 2008

multiplied by

The number of months from the 60th birthday to the month preceding the date of retirement age

multiplied by

0.45 %

4. Calculation of Contributory Retirement Pension under section 20(3), (4) and (6).

- (1) **Subject to paragraph 3, and subparagraph (2), the contributory retirement pension shall be the appropriate pension points at paragraph 2 multiplied by the value in rupees of one pension point**
- (2) **The amount of actuarially calculated contributory retirement pension payable shall be the amount calculated under subparagraph (1) reduced by the Early Retirement Reduction Factor calculated under paragraph 3 and multiplied by an actuarial factor specified in Table 1.**

Table I : Actuarial reduction factor

Age in completed years at the date of entitlement	Factor
45	0.40
46	0.44
47	0.48
48	0.52
49	0.56
50	0.60
51	0.64
52	0.68
53	0.72

54	0.76
55	0.80
56	0.84
57	0.88
58	0.92
59	0.96

NINTH SCHEDULE (added by Finance Act 2008/. Effective from 1 July 2008)

(section 2)

Phasing in of Retirement Age

The retirement age of a person in respect of his date of birth shown in column 1 shall be the corresponding age specified in column 2

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
AUGUST	1948	60 years + 1 month	SEPTEMBER	2008
SEPTEMBER	1948	60 years + 2 months	NOVEMBER	2008
OCTOBER	1948	60 years + 3 months	JANUARY	2009
NOVEMBER	1948	60 years + 4 months	MARCH	2009
DECEMBER	1948	60 years + 5 months	MAY	2009
JANUARY	1949	60 years + 6 months	JULY	2009
FEBRUARY	1949	60 years + 7 months	SEPTEMBER	2009
MARCH	1949	60 years + 8 months	NOVEMBER	2009
APRIL	1949	60 years + 9 months	JANUARY	2010
MAY	1949	60 years + 10 months	MARCH	2010
JUNE	1949	60 years + 11 months	MAY	2010
JULY	1949	61 years	JULY	2010
AUGUST	1949	61 years + 1 month	SEPTEMBER	2010
SEPTEMBER	1949	61 years + 2 months	NOVEMBER	2010
OCTOBER	1949	61 years + 3 months	JANUARY	2011
NOVEMBER	1949	61 years + 4 months	MARCH	2011
DECEMBER	1949	61 years + 5 months	MAY	2011

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
JANUARY	1950	61 years + 6 months	JULY	2011
FEBRUARY	1950	61 years + 7 months	SEPTEMBER	2011
MARCH	1950	61 years + 8 months	NOVEMBER	2011
APRIL	1950	61 years + 9 months	JANUARY	2012
MAY	1950	61 years + 10 months	MARCH	2012
JUNE	1950	61 years + 11 months	MAY	2012
JULY	1950	62 years	JULY	2012
AUGUST	1950	62 years + 1 month	SEPTEMBER	2012
SEPTEMBER	1950	62 years + 2 months	NOVEMBER	2012
OCTOBER	1950	62 years + 3 months	JANUARY	2013
NOVEMBER	1950	62 years + 4 months	MARCH	2013
DECEMBER	1950	62 years + 5 months	MAY	2013
JANUARY	1951	62 years + 6 months	JULY	2013
FEBRUARY	1951	62 years + 7 months	SEPTEMBER	2013
MARCH	1951	62 years + 8 months	NOVEMBER	2013
APRIL	1951	62 years + 9 months	JANUARY	2014
MAY	1951	62 years + 10 months	MARCH	2014
JUNE	1951	62 years + 11 months	MAY	2014
JULY	1951	63 years	JULY	2014
AUGUST	1951	63 years + 1 month	SEPTEMBER	2014
SEPTEMBER	1951	63 years + 2 months	NOVEMBER	2014
OCTOBER	1951	63 years + 3 months	JANUARY	2015
NOVEMBER	1951	63 years + 4 months	MARCH	2015
DECEMBER	1951	63 years + 5 months	MAY	2015

COLUMN 1		COLUMN 2	COLUMN 3	
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
JANUARY	1952	63 years + 6 months	JULY	2015
FEBRUARY	1952	63 years + 7 months	SEPTEMBER	2015
MARCH	1952	63 years + 8 months	NOVEMBER	2015
APRIL	1952	63 years + 9 months	JANUARY	2016
MAY	1952	63 years + 10 months	MARCH	2016
JUNE	1952	63 years + 11 months	MAY	2016
JULY	1952	64 years	JULY	2016
AUGUST	1952	64 years + 1 month	SEPTEMBER	2016
SEPTEMBER	1952	64 years + 2 months	NOVEMBER	2016
OCTOBER	1952	64 years + 3 months	JANUARY	2017
NOVEMBER	1952	64 years + 4 months	MARCH	2017
DECEMBER	1953	64 years + 5 months	MAY	2017
JANUARY	1953	64 years + 6 months	JULY	2017
FEBRUARY	1953	64 years + 7 months	SEPTEMBER	2017
MARCH	1953	64 years + 8 months	NOVEMBER	2017
APRIL	1953	64 years + 9 months	JANUARY	2018
MAY	1953	64 years + 10 months	MARCH	2018
JUNE	1953	64 years + 11 months	MAY	2018
JULY	1953	65 years	JULY	2018
AUGUST 1953 and after		On reaching 65 years		